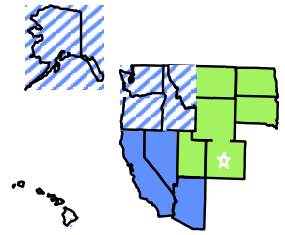




# US Army Environmental Center Western Regional Environmental Office REGION 8 – FEBRUARY 2003 **WESTERN REGION REVIEW**



The WESTERN REGION REVIEW provides current information on significant regulatory & legislative developments, as well as related information affecting DOD activities & operations in the Federal Region 8 area: Colorado, Montana, North Dakota, South Dakota, Utah, & Wyoming. We appreciate your feedback & encourage you to submit suggestions for future discussion. Please contact Marius Gedgaudas at the Western Regional Environmental Office, U.S. Custom House, 721 19<sup>th</sup> St., Room 427, Denver, CO 80202-2500, Phone: (303) 844-0954, or e-mail: [mgedgaud@rma.army.mil](mailto:mgedgaud@rma.army.mil).

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## **DID YOU KNOW?**

- The electronic version of the Western Region Review has been enhanced to increase ease in navigating through the document. Simply "click" on a topic in the table of contents and go directly to that section – to return to the top of the section click "top of section" - and to return to the top of document click "top of review". In addition, the agency emblems/logos and state flags hyperlink directly to the website – simply click and you are on your way.

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## FEDERAL AGENCY NEWS & REGULATORY DEVELOPMENTS



### ENVIRONMENTAL PROTECTION AGENCY (EPA) INFORMATION

#### AIR INFORMATION:

**FINAL RULE – REVISIONS TO NEW SOURCE REVIEW PROGRAM** – On 31 December 2002 (67 FR 80186), EPA revised regulations governing the New Source Review (NSR) programs mandated by the Clean Air Act. These revisions include changes in NSR applicability requirements for modifications to allow sources more flexibility to respond to rapidly changing markets and to plan for future investments in pollution control and prevention technologies. These changes reflect EPA's consideration of discussions and recommendations of the Clean Air Act Advisory Committee's Subcommittee on NSR, Permits and Toxics, comments filed by the public, and meetings and discussions with interested stakeholders. The changes are intended to provide greater regulatory certainty, administrative flexibility, and permit streamlining, while ensuring the current level of environmental protection and benefit derived from the program. This rule is effective on 3 March 2003. For further information, contact Lynn Hutchinson, EPA at (919) 541-5795, or e-mail: [hutchinson.lynn@epa.gov](mailto:hutchinson.lynn@epa.gov).

**FINAL RULE – EXEMPTING QUARANTINE AND PRE-SHIPMENT APPLICATIONS OF METHYL BROMIDE** – On 2 January 2003 (68 FR 237), EPA took final action to amend the accelerated phase out regulations that govern the production, import, export, transformation and destruction of substances that deplete the ozone layer under the authority of Title VI of the Clean Air Act. The amendments incorporate an exemption permitted under the Montreal Protocol on Substances that Deplete the Ozone Layer and required by changes in Title VI. Specifically, EPA has created an exemption from the consumption and production phase out for quantities of Class I, Group VI controlled substances (methyl bromide) that are used for quarantine and pre-shipment. This rule was effective 1 January 2003. For further information, contact Kate Choban, EPA at (202) 564-3524.

**FINAL RULE – NESHAP FOR SOLID WASTE LANDFILLS** – On 16 January 2003 (68 FR 2227), EPA promulgated national emission standards for hazardous air pollutants (NESHAP) for municipal solid waste (MSW) landfills. The final rule is applicable to both major and area sources and contains the same requirements as the Emission Guidelines and New Source Performance Standards. The final rule adds startup, shutdown, and malfunction requirements, adds operating condition deviations for out-of-bounds monitoring parameters, requires timely control of bioreactor landfills, and changes the reporting frequency for one type of report. The final rule fulfills the requirements of section 112(d) of the Clean Air Act (CAA), which requires the Administrator to regulate emissions of hazardous air pollutants (HAP) listed in section 112(b), and helps implement the Urban Air Toxics Strategy developed under section 112(k) of the CAA. The intent of the standards is to protect the public health by requiring new and existing sources to control emissions of HAP to the level reflecting the maximum achievable control technology. The HAP emitted by MSW landfills include vinyl chloride, ethyl benzene, toluene, and benzene. Each of the HAP emitted from MSW landfills can cause adverse health effects provided sufficient exposure. The rule was effective 16 January 2003. For further information, contact JoLynn Collins, EPA at (919) 541-5671, or e-mail: [collins.jolynn@epa.gov](mailto:collins.jolynn@epa.gov).

**FINAL RULE – ALLOWANCE SYSTEM FOR HCFC PRODUCTION AND CONSUMPTION** – On 21 January 2003 (68 FR 2819), EPA established an allowance system to control the U.S. consumption and production of ozone-depleting substances (ODSs) known as hydrochlorofluorocarbons (HCFCs). While much less destructive to the stratospheric ozone layer than chlorofluorocarbons (CFCs), HCFCs do

contribute to ozone depletion and alternatives are generally available. The HCFC allowance system is part of EPA's program to reduce the emissions of ODSs to protect the stratospheric ozone layer. Protection of the stratospheric ozone layer helps reduce rates of skin cancer and cataracts. The U.S. is obligated under the Montreal Protocol on Substances that Deplete the Ozone Layer to limit HCFC consumption to a specific level and to reduce it in a step-wise fashion beginning 1 January 2004. The U.S. has also agreed to limit production to a specific level beginning January 1, 2004. The rule was effective 21 January 2003. For further information, contact Vera Au, EPA at (202) 564-2216.

**FINAL RULE – REQUIREMENTS FOR SMALL MUNICIPAL WASTE COMBUSTION UNITS** – On 31 January 2003 (68 FR 5143), EPA promulgated a Federal plan to implement emission guidelines for small municipal waste combustion (MWC) units (i.e., units with a design combustion capacity of 35 to 250 tons per day of municipal waste), constructed on or before 30 August 1999, located in areas not covered by an approved state or tribal plan. The Federal plan is an interim action because on the effective date of an approved state plan or tribal plan, the Federal plan will no longer apply to small MWC units covered by the state or tribal plan. The Federal plan includes the following elements: identification of legal authority; identification of mechanisms for implementation; inventory of affected facilities; emissions inventory; emission limits; compliance schedules; public hearing requirements; reporting and recordkeeping requirements; and public progress reports. The rule was effective 31 January 2003. For further information, contact Lalit Banker, EPA at (919) 541-5420, or e-mail: [banker.lalit@epa.gov](mailto:banker.lalit@epa.gov).

**FINAL RESPONSE TO REMAND – NATIONAL AMBIENT AIR QUALITY STANDARDS FOR OZONE** On 6 January 2003 (68 FR 613), EPA provided a final response to a Court of Appeals remand to consider potential beneficial health effects of ozone (O<sub>3</sub>). Based on its review of the air quality criteria and national ambient air quality standards (NAAQS) for O<sub>3</sub> completed in 1997, its additional assessment of potential beneficial effects of tropospheric O<sub>3</sub>, and taking into account public comments, EPA has determined that information linking (a) changes in patterns of ground-level O<sub>3</sub> concentrations likely to occur as a result of programs implemented to attain the 1997 O<sub>3</sub> NAAQS to (b) changes in relevant patterns of exposures to ultraviolet radiation of concern to public health is too uncertain at this time to warrant any relaxation in the level of public health protection previously determined to be requisite to protect against demonstrated direct adverse respiratory effects of exposure to O<sub>3</sub> in the ambient air. As a result, the revised O<sub>3</sub> NAAQS will remain set at a level of 0.08 parts per million, with a form based on the 3-year average of the annual fourth-highest daily maximum 8-hour average O<sub>3</sub> concentrations measured at each monitor within an area. The effective date of EPA's response is 7 March 2003. For further information, contact Susan Stone, EPA at (919) 541-1146, or e-mail: [stone.susan@epa.gov](mailto:stone.susan@epa.gov).

**PROPOSED RULE – ROUTINE MAINTENANCE, REPAIR AND REPLACEMENT** – On 31 December 2002 (67 FR 80290), EPA proposed revisions to the regulations governing NSR programs mandated by the Clean Air Act. These proposed changes reflect EPA's consideration of the President's National Energy Policy (NEP), EPA's Report to the President on the impact of NSR pursuant to the NEP, and EPA's recommended changes to NSR based on the Report's findings and discussions with various stakeholders, including representatives from industry, state and local governments, and environmental groups. The proposed changes provide a future category of activities that would be considered to be routine maintenance, repair and replacement under the NSR program. The changes are intended to provide greater regulatory certainty without sacrificing the current level of environmental protection and benefit derived from the program. Comments must be received by 3 March 2003. For further information, contact Dave Svendsgaard, EPA at (919) 541-2380, or e-mail: [svendsgaard.dave@epa.gov](mailto:svendsgaard.dave@epa.gov).

**PROPOSED RULE – NESHAP FOR PLYWOOD AND COMPOSITE WOOD PRODUCTS** – On 9 January 2003 (68 FR 1275), EPA proposed national emission standards for hazardous air pollutants (NESHAP) for the plywood and composite wood products (PCWP) source category. EPA has determined that the PCWP source category contains major sources of hazardous air pollutants (HAP), including acetaldehyde, acrolein, formaldehyde, methanol, phenol, and propionaldehyde. These HAP are associated with a variety of adverse health effects, including chronic health disorders (e.g., damage to nasal membranes, reproductive disorders, and problems with pregnancies) and acute health disorders (e.g., irritation of eyes, throat, and mucous membranes, dizziness, headache, and nausea). Three of the HAP have been classified as probable or possible human carcinogens. Implementation of the proposed

standards would reduce HAP emissions from the PCWP source category by approximately 11,000 tons per year. In addition, the proposed standards would reduce emissions of volatile organic compounds by 27,000 tons per year. This action also proposes to add a method to the relevant General Provisions to measure methanol, formaldehyde, and phenol and a method to measure total HAP at PCWP facilities. Comments must be submitted by 10 March 2003. For further information, contact Mary Kissell, EPA at (919) 541-4516, or e-mail: [kissell.mary@epa.gov](mailto:kissell.mary@epa.gov).

**PROPOSED RULE – NESHAP FOR INDUSTRIAL/COMMERCIAL/INSTITUTIONAL BOILERS AND PROCESS HEATERS** – On 13 January 2003 (68 FR 1659), EPA proposed national emission standards for hazardous air pollutants (NESHAP) for industrial/ commercial/institutional boilers and process heaters. EPA has identified industrial/commercial/institutional boilers and process heaters as major sources of hazardous air pollutants (HAP) emissions. The proposed rule would reduce HAP emissions by 58,000 tons per year. The proposed rule would protect air quality and promote the public health by reducing emissions of some of the HAP listed in section 112(b)(1) of the CAA. The HAP emitted by facilities in the boiler and process heater source category include arsenic, cadmium, chromium, hydrogen chloride, hydrogen fluoride, lead, manganese, mercury, and nickel. Exposure to these substances has been demonstrated to cause adverse health effects such as irritation to the lung, skin, and mucus membranes, effects on the central nervous system, kidney damage, and cancer. Comments must be submitted by 14 March 2003. For further information, contact Jim Eddinger, at (919) 541-5426, or e-mail: [eddinger.jim@epa.gov](mailto:eddinger.jim@epa.gov).

**PROPOSED RULE – NESHAP FOR STATIONARY COMBUSTION TURBINES** – On 14 January 2003 (68 FR 1887), EPA proposed national emission standards for hazardous air pollutants (NESHAP) for stationary combustion turbines. EPA identified stationary combustion turbines as major sources of hazardous air pollutants (HAP) emissions such as formaldehyde, toluene, benzene, and acetaldehyde. The proposed standards would protect public health by reducing total national HAP emissions by an estimated 81 tons/year in the 5th year after the standards are promulgated. This action also proposed to add Method 323 of 40 CFR part 63, appendix A for the measurement of formaldehyde emissions from natural gas-fired stationary sources. Comments must be submitted by 13 February 2003. For further information, contact Sims Roy, EPA at (919) 541- 5263, or e-mail: [roy.sims@epa.gov](mailto:roy.sims@epa.gov).

### **WASTE INFORMATION:**

**NOTICE - UPDATE OF FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET** – On 2 January 2003 (68 FR 107), EPA issued a notice updating the Federal Agency Hazardous Waste Compliance Docket required by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act (SARA) of 1986. SARA, as amended by the Defense Authorization Act of 1997, specifies that, for each federal facility that is included on the docket during an update, a site evaluation shall be completed to determine whether the facility should conduct further remedial studies. For further information, link: <http://www.epa.gov/compliance/cleanup/federal/index.html>.

### **WATER INFORMATION:**

**INTERIM FINAL RULE – NON-TRANSPORTATION-RELATED ONSHORE AND OFFSHORE FACILITIES SPCC PLANNING DEADLINE EXTENSION** – On 9 January 2003 (68 FR 1347), EPA extended for sixty days the dates for a facility to amend its Spill Prevention, Control, and Countermeasure (SPCC) Plan and implement the amended Plan (or, in the case of facilities becoming operational after 16 August 2002, prepare and implement a Plan that complies with the newly amended requirements). EPA took this action to avoid the flood of individual extension requests it would otherwise receive from regulated facilities, and to allow for adequate consideration of comments EPA expects to receive on a proposed one-year extension of the dates (68 FR 1352, 9 January 2003). The interim final rule was effective on 9 January 2003. For further information, contact Mark Howard, EPA at (703) 603-8715, or Jane Nakad, EPA Region 8 at (303) 312-6202.

**NOTICE OF AVAILABILITY – FINAL WATER QUALITY TRADING POLICY** – On 13 January 2003 (68 FR 1608), EPA announced the availability of its final Water Quality Trading Policy. The final policy describes ways that water quality trading programs may be aligned with the Clean Water Act and implementing regulations, and describes elements of environmentally sound trading programs. Water quality trading is a voluntary, incentive-based approach that can offer greater efficiency in restoring or protecting water bodies. Trading allows a source to meet its regulatory obligations by using pollutant reductions created by another party with lower pollution control costs. The policy offers guidance to states and tribes on developing and implementing water quality trading programs. All water quality trading should occur within a watershed or a defined area for which a TMDL has been approved. The policy is available at <http://www.epa.gov/owow/watershed/trading.htm>. For further information, contact David Batchelor, EPA at (202) 564-5764, or e-mail: [batchelor.david@epa.gov](mailto:batchelor.david@epa.gov).

### **GENERAL INFORMATION:**

**FINAL RULE – TSCA INVENTORY UPDATE RULE AMENDMENTS** – On 7 January 2003 (68 FR 847), EPA promulgated amendments to the Toxic Substances Control Act (TSCA) section 8(a) Inventory Update Rule (IUR). The IUR currently requires manufacturers (including importers) of certain chemical substances on the TSCA Chemical Substances Inventory to report data on each chemical's current production volume, site-limited status, and plant site information every 4 years. Through these IUR amendments, EPA is requiring the reporting of additional data for certain chemicals to assist EPA and others in screening potential exposures and risks resulting from industrial chemical operations and commercial and consumer uses of TSCA chemical substances. EPA is also modifying the IUR reporting and record-keeping requirements, removing one reporting exemption and creating others, and modifying its procedures for making Confidential Business Information claims. These amendments were effective 6 February 2003. For further information, contact Barbara Cunningham, EPA at (202) 564-8170.

**NOTICE OF AVAILABILITY – “FEDFACS” NEWSLETTER (WINTER EDITION)** – “FedFacs” is an EPA environmental bulletin highlighting news and developments of particular interest to Federal facilities, including DoD installations. “FedFacs” highlights compliance assistance for Federal agencies, pollution prevention information, EPA-Federal agency partnerships, and other topical information. The Winter Issue contains articles on base closures, online compliance tracking reports, sulfur emissions, EMS workshops, and agreements with several military installations. The current edition (as well as past issues) is available at: <http://www.epa.gov/compliance/resources/newsletters/civil/fedfac/index.html>.



### **GENERAL INFORMATION**

**FINAL RULE – UPDATE OF HAZARDOUS MATERIAL TRANSPORTATION REGULATIONS** – On 8 January 2003 (68 FR 1013), the U.S. Department of Transportation, Research and Special Programs Administration, amended the Hazardous Materials Regulations by updating incorporation by reference materials to include the most recent amendments to the International Maritime Dangerous Goods Code, the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air, and the United Nations Recommendations on the Transport of Dangerous Goods. This action was taken to facilitate the continued transport of hazardous materials in international commerce by aircraft and vessel after these international standards become effective. For further information, contact Joan McIntyre at (202) 366-8553.



**NOTICE – WITHDRAWAL OF PROPOSED LISTING OF FLAT-TAILED HORNED LIZARD AS**

**THREATENED** – On 3 January 2003 (68 FR 331), the U.S. Fish and Wildlife Service (FWS) determined that the proposed listing of the flat-tailed horned lizard (*Phrynosoma mcallii*) as threatened, pursuant to the Endangered Species Act (ESA), was not warranted, and withdrew proposed rule. FWS made this determination because threats to the species as identified in the proposed rule were not as significant as earlier believed, and current available data do not indicate that the threats to the species and its habitat, as analyzed under the five listing factors described in section 4(a)(1) of the ESA, are likely to endanger the species in the foreseeable future throughout all or a significant portion of its range. For further information, contact Jim Bartel, FWS at (760) 431-9440.

**PROPOSED RULE – EXTENSION OF COMMENT PERIOD FOR DESIGNATION OF CRITICAL HABITAT FOR PREBLE’S MEADOW JUMPING MOUSE AND AVAILABILITY OF DRAFT ECONOMIC ANALYSIS AND ENVIRONMENTAL ASSESSMENT**

– On 28 January 2003 (68 FR 4160), FWS announced the availability of the draft economic analysis and draft environmental assessment for the proposal to designate critical habitat for the Preble’s meadow jumping mouse (*Zapus hudsonius preblei*). FWS also announced the extension of the public comment period until 27 February 2003. For further information, contact LeRoy Carlson, FWS at (303) 275-2370.

**GAO REPORT – FEDERAL GOVERNMENT USE AND DISPOSAL OF ENGINE LIBRICATING OIL**

GAO has published a report addressing the use and disposal of engine lubricating oil within federal agencies, including DoD. The report contains a discussion of three options for reducing cost and amount of oil used (bypass filters, synthetic lubricating oils, and oil analysis programs). The report is available at <http://www.gao.gov/new.items/d03340.pdf>. For further information, contact William Solisat at (202) 512-8365, or e-mail: [solisw@goa.gov](mailto:solisw@goa.gov).



## UPCOMING CONFERENCES, SYMPOSIUMS AND TRAINING ANNOUNCEMENTS

### DSMOA TRAINING WORKSHOPS

25-26 February 2003 – Sacramento, California  
18-19 March 2003 – Colorado Springs, Colorado  
2-3 April 2003 – Palm Springs, California  
30 April-1 May 2003 – Seattle, Washington  
6-7 May 2003 – Anchorage, Alaska

DoD has announced its 2003 series of workshops for the DoD and State Memorandum of Agreements (DSMOA) training initiative. These workshops will focus on teaching a standardized approach to the 6-Step Cooperative Agreement process and promoting a productive dialogue between members of the DSMOA program. Both DoD and state DSMOA personnel are encouraged to attend. For more information or to register, link <http://www.enstg.com/conference>.

### SUPER ENERGY SAVINGS PERFORMANCE CONTRACTING WORKSHOP

25-26 February 2003 – San Francisco, California  
20-21 May 2003 – Indianapolis, Indiana  
22-23 July 2003 – Washington, DC

The U.S. Department of Energy, Federal Energy Management Program, is presenting this free workshop for federal employees involved in energy management, engineering, and procurement. Attendees will learn how to lower capital costs while reducing long-term energy and water bills. For more information or to register, call (703) 243-8343.

### HAZARDOUS WASTE MANIFESTING/DOT CERTIFICATION COURSES

17-21 March 2003 – San Diego, California

The Army Corps of Engineers Hazardous Waste Center is conducting an **initial certification** course that provides the necessary information under RCRA and DOT regulations to properly manifest hazardous wastes offsite. The course covers waste classification, waste profiling, Land Disposal Restriction notification requirements, universal waste, used oil, asbestos, and PCB shipping requirements. In addition, there will be a DOT **recertification** course on 18-19 March. These courses are open to all federal agencies. For more information or to register, contact Joy Rodriguez at (256) 895-7448.

### ARMY ENVIRONMENTAL TRAINING WORKSHOP

23-28 March 2003 – Kansas City, Missouri

The Army Training and Doctrine Command (TRADOC) and the Army Environmental Center (AEC) are sponsoring this workshop, which will consist of numerous environmental short courses and seminars. It is intended to provide: 1) awareness and training in Army environmental programs; 2) preparation for the new installation management business models, such as TIM and EMS; and 3) opportunities for installation staff to obtain program updates and share lessons learned. For more information, contact Susan West, TRADOC at (757) 788-2279, e-mail: [wests@Monroe.army.mil](mailto:wests@Monroe.army.mil), or Susan Thomas, AEC at (410) 436-6899, e-mail: [Susan.Thomas@aec.apgea.army.mil](mailto:Susan.Thomas@aec.apgea.army.mil).

### 29<sup>th</sup> ENVIRONMENTAL AND ENERGY SYMPOSIUM

7-10 April 2003 – Richmond, Virginia

This symposium is sponsored by the National Defense Industrial Association, Environment and Energy Division, in cooperation with the Deputy Under Secretary of Defense for Installations and Environment, the Defense Logistics Agency, EPA and DOE. It will provide a national forum for the exchange of technical information, government policy, regulations, programs and laws, and new ideas on environmental and energy issues and areas of concern. For more information, contact Derek Jenks at [djenks@ndia.org](mailto:djenks@ndia.org) or link <http://register.ndia.org/interview/register.ndia?~Brochure~3440>.

**INTRODUCTORY HEALTH RISK COMMUNICATION WORKSHOPS****8-10 April 2003 – Las Vegas, Nevada****15-17 April 2003 – Anchorage, Alaska****26-28 August 2003 – Seattle, Washington**

The Army Center for Health Promotion and Preventative Medicine is presenting these workshops to instruct participants how to identify, build, maintain, and utilize strategic partnerships and plans to support an organization's mission. The workshop will provide a basic understanding of the concepts, principles, and process of effective risk communication. Topics include: History and Philosophy of Risk Communication, Steps of the Risk Communication Process, Importance of Identifying, Understanding, and Collaborating with Key Stakeholders, Pitfalls to Effective Risk Communication, and Basic Tools for Engaging the Media. For more information or to register, contact Suaquita Perry (410) 436-3515, or link <http://chppm-www.apgea.army.mil/risk>.

**NATIONAL POLLUTION PREVENTION ROUNDTABLE SPRING CONFERENCE****8-11 April 2003 – Louisville, Kentucky**

The Pollution Prevention (P2) Roundtable will bring together pollution prevention practitioners and experts to share the latest in policy, regulatory, and technical information. The meeting will feature special tracks on Environmental Management Systems and P2, international sustainability policy discussions as a follow-up to the World Summit, and P2's role in addressing global climate change challenges. For more information, link <http://www.p2.org/events/spring2003/>.

**WATER RESOURCE MANAGEMENT WORKSHOP****15-16 April, 2003 – Denver, Colorado**

The Federal Energy Management Program is presenting this workshop for facility resource managers responsible for water management and conservation, and for adherence to Executive Order 13123. The course will cover legislation and legal issues concerning water management in the federal sector; impacts of Executive Order 13123; opportunities for water conservation; auditing, leak detection and metering; drought management; and integrated resource planning. For more information or to register, link <http://www.pnl.gov/femp>.

**25<sup>TH</sup> SYMPOSIUM ON BIOTECHNOLOGY FOR FUELS & CHEMICALS****4-7 May 2002 – Breckenridge, Colorado**

The National Renewable Energy Laboratory is sponsoring this symposium, which focuses on improving the economics of fuels and chemicals production. The program will cover the latest research breakthroughs and results in biotechnology. A variety of formal technical sessions, poster sessions, and informal discussion groups will provide an exchange of information for attendees. For more information or registration, link [http://www.nrel.gov/biotech\\_symposium](http://www.nrel.gov/biotech_symposium).

**INTERMEDIATE HEALTH RISK COMMUNICATION WORKSHOP****12-15 May 2003 – San Antonio, Texas**

The Army Center for Health Promotion and Preventative Medicine is presenting this workshop to instruct participants how to identify, build, maintain, and utilize strategic partnerships and plans to support an organization's mission. The workshop builds on the "Introductory Health Risk Communication Workshop" listed above (a pre-requisite for this course) and will provide participants with hands-on experience in applying the steps of the risk communication process, on-camera media practice, and seminar-style discussions of "hot" issues impacting military health and readiness. For more information or to register, contact Suaquita Perry (410) 436-3515, or link <http://chppm-www.apgea.army.mil/risk>.

**9<sup>TH</sup> NATIONAL CLEAN CITIES CONFERENCE****18-21 May 2003 – Palm Springs, California**

The Department of Energy is sponsoring this conference and exposition. Topics will include alternative fuel vehicles, energy security, and clean air. For more information or to register, link [http://www.cities.doe.gov/conference/palm/palm\\_home.shtml](http://www.cities.doe.gov/conference/palm/palm_home.shtml).



**REAL WORLD CLEAN AIR SYMPOSIUM****19-22 May 2003 – Seattle, Washington**

This event will be sponsored by the U.S. Army Forces Command, Hill Air Force Base, Fort Irwin, and the West Coast Section, Air and Waste Management Association, with support from the Army Training and Doctrine Command, the Army Environmental Center, and EPA. Topics to be addressed include installation sustainability, Environmental Management Systems, installation air program management, pollution prevention, and homeland security. For more information, contact Michelle Kubal at (937) 254-7950, ext. 1168, e-mail [mkubal@anteon.com](mailto:mkubal@anteon.com), or link <http://www.usasymposium.com>.

**11<sup>th</sup> ANNUAL GLOBAL DEMILITARIZATION SYMPOSIUM****19-22 May – Sparks, Nevada**

The Joint Ordnance Commanders Group and the National Defense Industrial Association are presenting this symposium to support DoD in efforts directed at reducing the stockpile of excess and obsolete munitions. Topics include ongoing disposal, recycling and reuse programs, research and development efforts, transitioning technologies, and the latest policy issues. For more information, contact Paul Cole at (918) 420-8823, or link <http://www.ndia.org/events/brochure/3580/>.

**FEDERAL ENERGY DECISION SYSTEM WORKSHOPS****21-23 May 2003 – Anchorage, Alaska**

The Federal Energy Management Program is presenting two courses on the Federal Energy Decision System (FEDS). The Introduction to FEDS will be on 21 May, followed by a two-day advanced course. Participants will learn the features and capabilities of the FEDS 5.0 software and use it to quickly and objectively identify energy improvements for maximum cost-effective savings in accordance with life-cycle-costing methodology. For more information or to register, link <http://www.pnl.gov/femp>.

**2003 ARMY CWA/SDWA WORKSHOP****2-5 June 2003 – Albuquerque, New Mexico**

The Army is sponsoring this water issues workshop for Army environmental personnel to increase the understanding of the requirements and challenges of CWA and SDWA management at all levels of Army organization. The workshop will include presentations relevant to installation environmental concerns such as DoD perspective and insight, technical and regulatory updates, lessons learned at installations, and panel discussions. The final agenda is being developed. For more information, contact Kristin MacAulay at (937) 384-4242, e-mail: [Kristin.MacAulay@westonsolutions.com](mailto:Kristin.MacAulay@westonsolutions.com), or link: <http://dm.westonproject.net/wiw/>.

**AIR AND WASTE MANAGEMENT ANNUAL CONFERENCE & EXHIBITION****22-26 June 2003 – San Diego, California**

AWMA will be presenting its 96<sup>th</sup> annual conference with the theme: "Environment in the Balance...THE JOURNEY AHEAD," and will focus on "Energy, Economy & Global Challenges." AWMA has issued a call for Abstracts and had posted a Technical Program grid on its website. For more information, link <http://www.awma.org>.

**8<sup>TH</sup> ANNUAL JOINT SERVICES P2 & HAZARDOUS WASTE MANAGEMENT CONFERENCE****11-14 August 2003 – San Antonio, Texas**

The Naval Facilities Engineering Command and the Air Force Center for Environmental Excellence are co-hosting this conference, which will provide an open forum for exchanging ideas, success stories, case histories, and technologies related to pollution prevention and hazardous waste management. This year's theme is: "Sustaining Readiness Through Environmental Stewardship." A call for abstracts has been issued, with a closing date of 5 March 2003. For more information, link: <http://www.p2-hwmconference.com>.

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## STATE REGULATORY DEVELOPMENTS, LEGISLATION, AND NEWS



## COLORADO

### Regulatory Developments & Other State Information

**HAZARDOUS WASTE TRAINING** - The Hazardous Waste Compliance Round Table and the Hazardous Materials and Waste Management Division of the Colorado Department of Public Health and Environment (CDPHE) are jointly presenting a hazardous waste management workshop for environmental managers and compliance staff. This workshop is designed to provide an overview of the Colorado hazardous waste regulations. The one-day workshop is co-sponsored by the Larimer County Health Department and will be held in the Columbine Room at the Lincoln Center in Fort Collins on 13 February 2003. There is a course fee of \$25. For additional information or registration, contact Claudette Ferris at (303) 692-3300 or 888-569-1831 toll-free, or email [comments.hmwmd@state.co.us](mailto:comments.hmwmd@state.co.us).

**TOXIC CHEMICAL RELEASE INVENTORY REPORTING WORKSHOPS** – EPA Region 8 is sponsoring several free workshops that provide comprehensive information and instruction to government facilities and businesses that must complete the Toxic Chemical Release Inventory Reporting Form under Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA). This reporting responsibility requires affected facilities to report annually for over 650 EPCRA Section 313 chemicals and chemical categories. Workshops focused on issues related to the manufacturing, petroleum bulk storage, chemical distribution, solvent recovery, and RCRA Subtitle C TSD industries will be held 5 March and 10 April 2003 in Denver. A workshop focused on issues related to the metal mining, coal mining, and electricity generating industries will be held 18 March. For more information or to register, contact Jack Slater, EPA at (303) 312-6026, or Joyel Dhieux at (303) 312-6447.

### AIR INFORMATION:

**FINAL RULE – EXEMPTION OF FORT CARSON AND PINON CANYON FROM OPACITY LIMITS** – On 31 January 2003 (68 FR 4933), EPA approved a State Implementation Plan revision submitted by Colorado that exempts military training exercises at Fort Carson and Pinon Canyon Maneuver Site from opacity limits. The intended effect of this action is to allow the use of smoke and obscurants for military training exercises when operated under applicable requirements. This final rule is effective 3 March 2003. For further information, contact Laurel Dygowski, EPA at (303) 312-6144.

**FINAL REGULATION – REVISIONS TO AIR POLLUTION EMISSION NOTICES** – The Colorado Department of Public Health and Environment (CDPHE) has adopted revisions to the regulations governing air pollutant emission notices (APENs). The revisions are to the crude oil and condensate storage tank APEN exemptions, as well as the definition of "condensate." The revisions were effective 30 January 2003. For more information, contact Phyllis Woodford at (303) 692-3221.

**PROPOSED REGULATION – AREA DESIGNATIONS FOR 8-HOUR OZONE STANDARD** – CDPHE has proposed that all air quality regions in Colorado be classified as either attainment or attainment/unclassifiable for the 8-hour ozone national ambient air quality standard. The classifications will be based on monitoring data from the State's network, as well as data from EPA and the National Park Service. CDPHE will hold a public hearing 20 February 2003. For more information, contact Douglas Lempke at (303) 692-3478.

**WASTE INFORMATION:****NOTICE – PARTIAL DELETION OF ROCKY MOUNTAIN ARSENAL SITE FROM NATIONAL PRIORITIES LIST**

– On 21 January 2003 (68 FR 2699), EPA Region 8 announced the deletion of the Western Tier Parcel of the Rocky Mountain Arsenal National Priorities List (RMA/NPL) Site from the National Priorities List (NPL). The NPL constitutes appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan, which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). EPA and the Colorado Department of Public Health and Environment have determined that the Western Tier Parcel of the RMA/NPL Site poses no significant threat to public health or the environment and no further remedial measures pursuant to CERCLA are appropriate. This partial deletion pertains only to the Western Tier Parcel of the RMA/NPL Site. The effective date of the deletion was 21 January 2003. For further information, contact Laura Williams, EPA at (303) 312-6660.

**PROPOSED REGULATION – AMENDMENTS TO HAZARDOUS WASTE FEES**

– CDPHE has proposed amendments to its hazardous waste fee regulations. The proposed amendments include: (1) amending the definition of small quantity generator and adding definitions for conditionally exempt small quantity generator and large quantity generator; (2) identifying the annual fees a generator is required to pay; (3) increasing annual generator fees, treatment, storage and disposal (TSD) operating fees, TSD minimum and maximum fees, TSD post-closure fees, TSD post-closure minimum and maximum fees, document review and activity fees, and ceiling fee for Class I permit modifications; and (4) creating new annual fees for operation and post-closure of corrective action management units. CDPHE will hold a public hearing 18 February 2003. For more information, contact Karen Osthus at (303) 692-3466, or link: <http://www.cdphe.state.co.us/op/hwc/031802rmhfees.pdf>.

**WATER INFORMATION:**

**PROPOSED REGULATION – AMENDMENTS TO BIOSOLIDS REGULATION** – CDPHE has proposed amendments to its biosolid regulation (Regulation #64). A triennial review of the biosolids regulations was completed in fall 2002. Based on the triennial review, CDPHE has determined that specific revisions are required. The proposed changes remove certain administrative requirements, and bring the rules into conformity with federal standards. CDPHE will hold a public hearing on 11 March 2003. Comments must be submitted by 4 March. For more information, contact Diana Glaser at (303) 692-3469.

**PROPOSED REGULATION – INSTREAM FLOW AND NATURAL LAKE LEVEL PROGRAM** – The Colorado Water Conservation Board has proposed amendments and additions to its rules concerning the Colorado Instream Flow and Natural Lake Level Program. The proposal would delete references to rules made obsolete by statutory changes, correct inconsistencies, update procedures, and renumber and reorganize the rules. Public comments will be accepted through 21 February 2003. For more information, contact Rod Kuharich at (303) 866-3534, or link: [http://www.cwcb.state.co.us/isf/Rules/12-20-02\\_final\\_redlined\\_rules.pdf](http://www.cwcb.state.co.us/isf/Rules/12-20-02_final_redlined_rules.pdf).

**PROPOSED REGULATION - TMDL WAIVER FROM STORMWATER PERMIT REQUIREMENTS**

– CDPHE has proposed to amend the waiver provisions of the Phase II Stormwater Permit regulations for discharges associated with small construction activities. The proposal includes a waiver of the permit requirement for small construction activities for which it is determined that stormwater controls are not necessary based on a TMDL or equivalent analysis that addresses pollutants of concern. This proposal is in response to a petition from the Colorado Oil and Gas Association and Colorado Petroleum Association, requesting that the Commission authorize permits based on the existence of a TMDL. CDPHE will hold a public hearing on 14 April 2003 and accept comments until that date. For more information, contact Diana Glaser at (303) 692-3469.

### Legislative Developments

The 2003 legislative session convened 8 January. The information reported below was current as of 4 February. For more recent information on the legislative session, link [http://www.state.co.us/gov\\_dir/stateleg.htm](http://www.state.co.us/gov_dir/stateleg.htm).

**COLORADO HB 1001 – WATER USE** - Requires the Colorado Water Resources and Power Development Authority to subsidize the cost of issuance of bonds and notes for water management facilities that are raw water diversion or storage projects and that are jointly sponsored by two or more governmental agencies. Allows the state engineer to approve, after notice and comment, the operation of substitute water supply plans during a drought. Allows entities that pay for repairs necessary to remove a reservoir storage restriction imposed by the state engineer to apply for approval of the use of such storage as a drought substitute water supply plan. Introduced and referred to House Agriculture, Livestock and Natural Resources Committee 8 January 2003. The sponsor is Representative Diane Hoppe (R).

**COLORADO HB 1008 – WATER USE** - Authorizes the record or beneficial owner of a water right appurtenant to a land or water area to create a conservation easement in the water right. Specifies that if a mutual ditch company or irrigation district is the record owner of a water right, a conservation easement may be created in that water right only in accordance with the applicable requirements of the mutual ditch company or irrigation district. Introduced and referred to House Agriculture, Livestock and Natural Resources Committee 8 January 2003. The sponsor is Representative Lola Spradley (R).

**COLORADO HB 1015 – AIR QUALITY** - Delays for 5 years (until 1 July 2008) the first of a series of cumulative economic analyses of all air pollution control measures adopted by the state, to be undertaken by the department of public health and environment after public comment and review. Repeals a permit fee credit program for permittees that reduce their baseline level of emissions of regulated pollutants. Introduced 8 January 2003. Passed House 28 January. Referred to Senate Health, Environment, Welfare and Institutions Committee 29 January. The sponsor is Representative Rosemary Marshall (D).

**COLORADO HB 1016 – INSPECTION AND MAINTENANCE PROGRAMS** - Authorizes the air quality control commission to increase the effective duration of certifications of emissions compliance issued for new motor vehicles. Authorizes the sale of a motor vehicle without obtaining an emissions test if the original new vehicle emissions certification does not expire within the next 12 months. Introduced and referred to House Transportation and Energy Committee 8 January 2003. Amended and referred to House Appropriations 29 January. The sponsor is Representative Shawn Mitchell (R).

**COLORADO HB 1035 – EXOTIC NUISANCE SPECIES** - Authorizes a board of county commissioners to contract with another board to manage and control pests, including sharing costs and employees. Requires such contract to be in writing and contain the purposes, rights, responsibilities, and financial obligations of each county. Clarifies that such contracting authority does not supercede existing legal obligations. Repeals a prohibition on the creation of pest control districts for the purpose of weed management. Introduced 8 January 2003. Passed House 20 January. Referred to Senate Agriculture, Natural Resources and Energy Committee 21 January. The sponsor is Representative Bob Briggs (R).

**COLORADO HB 1046 – LAND USE** - Specifies that a conservation easement in gross may be created through a reservation by a governmental entity or a charitable organization. Introduced 8 January 2003. Passed House 3 February. The sponsor is Representative Alice Madden (D).

**COLORADO HB 1053 – DIESEL EMISSIONS** - Modifies the requirements for testing diesel vehicle emissions. Expands the model year exemption from two to four years for heavy-duty diesel vehicles. Decreases the frequency of tests from annual to biennial for heavy-duty vehicles that are 10 model years old or newer and at least model year 1995. Requires testing of all diesel vehicles routinely operated in the program area, even if such vehicles are not registered or housed in the program area. Authorizes the transfer of ownership of a diesel vehicle from the lessor to the lessee without an emissions test during the first four model years of the vehicle's life. Makes other changes to the program, including changing the definition of a heavy-duty diesel vehicle from a

vehicle that exceeds 7,500 pounds empty weight to a vehicle that exceeds 14,000 pounds gross vehicle weight rating. Introduced 8 January 2003. Amended 15 January. The sponsor is Representative Ann Ragsdale (D).

**COLORADO HB 1056 – WASTE** - Extends from 1 January 2004, to 1 January 2009, two repeal dates relating to the expenditure of solid waste fees to fund response actions at solid waste landfills and national priority list sites. Introduced and referred to House Finance Committee 9 January 2003. The sponsor is Representative Joe Stengel (R).

**COLORADO HB 1090 – WATER** - Prohibits water courts from decreeing a transmountain water right to an applicant who has the right to develop water from any of the Denver basin aquifers unless the applicant demonstrates that it is putting to beneficial use its maximum entitlement to such water. Introduced and referred to House Agriculture, Livestock and Natural Resources Committee 9 January 2003. The sponsor is Representative Carl Miller (D).

**COLORADO HB 1092 – FORESTRY** - Directs the Department of Natural Resources and its divisions that own forested land, in consultation and cooperation with the state forester, to actively manage all forested state lands, consistent with applicable laws and state best management practices, using the range of management options appropriate to the given forest ecosystem, to: (1) reestablish natural forest conditions; (2) reduce the threat of large, high-intensity wildfires in the wildland-urban interface; (3) sustain and promote natural habitat consistent with healthy forest conditions; and (4) conserve and restore, as appropriate, natural water yields from forested watersheds. Introduced and referred to House Agriculture, Livestock and Natural Resources Committee 9 January 2003. Reported from Committee 30 January. The sponsor is Representative Al White (R).

**COLORADO HB 1100 – LAND USE** - Authorizes a municipality, a county, the Colorado State Forest Service, the Wildlife Commission, the Colorado Water Conservation Board, and the Air Quality Control Commission to coordinate with the U.S. Secretary of the Interior and the U.S. Secretary of Agriculture to develop resource management plans for federal lands within its jurisdiction pursuant to federal law. Introduced and referred to House Agriculture, Livestock and Natural Resources Committee 9 January 2003. Reported from Committee 30 January. The sponsor is Representative Matt Smith (R).

**COLORADO HB 1113 – WATER** - Requires that a water judge include, in each decree for a water right that diverts agricultural water from one water division into another, conditions to address the direct economic effects of the diversion on the basin of origin. Introduced and referred to the House Agriculture, Livestock and Natural Resources Committee 9 January 2003. The sponsor is Representative John Salazar (D).

**COLORADO HB 1120 – WATER** - Invalidates restrictive covenants that prohibit or limit the use of xeriscape landscaping or that require cultivated vegetation to include turf grass. Reduces the sales and use taxes applicable to water-saving devices from 2.90% to 1.90% during tax years 2004 and 2005. Requires the executive director of the department of revenue to create a list of water-saving devices after consulting with the director of the office of water conservation. Creates an exception to the definition of abandonment of a water right for periods of nonuse that are caused by the implementation of bona fide water conservation efforts as determined on a case by case basis by the state engineer. Introduced and referred to House Agriculture, Livestock and Natural Resources; and State, Veterans and Military Affairs Committees 13 January 2003. Died in Committee 23 January. The sponsor is Representative Paul Martin Weissmann (D).

**COLORADO HB 1140 – NOXIOUS WEEDS** - Amends legislative findings to include eradication, containment, and suppression of noxious weeds as being in the best interests of Colorado. Prohibits the intentional introduction of a designated noxious weed into Colorado. Allows the Commissioner of Agriculture to seek remediation costs associated with weed management related to the intentional introduction of designated noxious weeds from the entities involved in the introduction of the species. Directs the Department of Agriculture to classify noxious weeds. Introduced and referred to House Agriculture, Livestock and Natural Resources Committee 14 January 2003. The sponsor is Representative Mark Larson (R).



**COLORADO HB 1146 – WATER QUALITY** - Allows water judges to include in a decree for a change of water right terms to prohibit the change from adversely affecting the quality of water to meet the normal requirements of use of downstream appropriators. Introduced and referred to House Agriculture, Livestock and Natural Resources Committee 14 January 2003. The sponsor is Representative Lola Spradley (R).

**COLORADO HB 1155 – RADIOACTIVE WASTE** - Subjects the disposal of mill tailings from the processing of materials for their mineral value to the fees and environmental analysis required for the shipment and subsequent disposal of radioactive classified waste if the materials were taken from certain federally-regulated sites and if the materials are otherwise classified waste. Allows the fees to be on a per-ton basis and requires the fees to be paid for each shipment of waste that, in the department of public health and environment's opinion, must separately be characterized. Introduced and referred to House Finance Committee 14 January 2003. The sponsor is Representative Liane McFadyen (D).

**COLORADO SB 18 – ENVIRONMENTAL ADMINISTRATIVE PROCEDURES** - Requires the Department of Public Health and Environment to prepare on a biennial basis a report to the Governor, the General Assembly, and the residents of Colorado on the state of the environment and environmental health in Colorado. Introduced and referred to Senate Health, Environment, Welfare and Institutions; and Appropriations Committees 8 January 2003. The sponsor is Senator John Evans (R).

**COLORADO SB 48 – HAZARDOUS WASTE** - Clarifies that the types of solid waste subject to user fees charged at waste disposal sites include construction debris, soils, and both compacted and noncompacted waste. Eliminates the additional fee imposed to fund local government hazardous-substance response activities at sites designated on the national priority list ("superfund" list), and instead allows a local government that operates a disposal site or facility to retain a larger portion of the fee revenue that would otherwise be payable to the state. Introduced and referred to Senate State Veterans and Military Affairs; and Appropriations Committees 8 January 2003. The sponsor is Senator Penfield Tate (D).

**COLORADO SB 73 – WATER** - Defines "re-timing well" as any well that diverts water for recharge or to augment or replace water to a stream, ditch, canal, or reservoir. Requires the state engineer to adopt rules by 1 July 2003, for the use of tributary ground water in the South Platte river basin by re-timing wells and by wells that were vested on or before 7 June 1969. Exempts certain uses from the rules. Allows the state engineer to approve replacement plans and requires the state engineer to assume in such plans that depletions are at least 50% of diversions unless the state engineer relies on the South Platte decision system. Introduced and referred to Senate Agriculture, Natural Resources and Energy Committee January 10, 2003. The sponsor is Senator David T. Owen (R).

**COLORADO SB 85 – WATER** - Allows the Division of Water Resources engineers to approve loans of water rights within a particular stream system for up to 120 days upon submission of evidence quantifying the rights and a finding of no injury to other water rights. Allows the state engineer to approve loans of water rights for up to 120 days to the Colorado water conservation board for instream use during a drought upon a finding of no injury to other water rights. Introduced and referred to Senate State Veterans and Military Affairs Committee 13 January 2003. The sponsor is Senator Jim Isgar (D).

**COLORADO SB 90 – WATER** - Directs the state engineer and water courts to consider in applications for water rights, conditional water rights, and changes of use or point of diversion: (1) the applicant's efforts to conserve, salvage, or reuse water in ways that result in a net reduction of the applicant's consumptive use; (2) reasonable efficiency standards; (3) replacement of phreatophytic plant species with other species; and (4) the public interest. Introduced and referred to Senate State Veterans and Military Affairs Committee 14 January 2003. The sponsor is Senator Dan Grossman (D).

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## MONTANA

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### AIR INFORMATION:

**FINAL REGULATION – FEES FOR ASBESTOS PROJECTS** - The Montana DEQ has amended its fees for asbestos projects. The amendments: (1) delete the annual permit fee for projects with one outside contractor; (2) reduce the annual permit fee from \$1,500 to \$145; and (3) reduce the fee for permit amendments from \$400 to \$145. The amendments were effective 26 December 2002. For more information, contact Vicky Walsh at (406) 444-9786, or link <http://www.deq.state.mt.us/dir/legal/Notices/17-182.pro.pdf>.

### Legislative Developments

The 2003 legislative session convened 6 January. The information below was current as of 4 February. For more recent information on the legislative session, link <http://www.leg.state.mt.us>.

**MONTANA HB 43 – ASBESTOS, AIR QUALITY** - Amends the criteria to determine whether and what type of control measures are necessary for an asbestos project and whether a project is completed in a manner sufficient to protect public health, including criteria setting allowable limits on indoor airborne asbestos. Includes requirements for issuance of asbestos project permits and conditions that permits holders must meet. Effective immediately. Prefiled 3 December 2002. Passed House and sent to Senate 17 January 2003. Referred to Senate Natural Resources Committee 22 January. The sponsor is Representative Jill Cohenour (D).

**MONTANA HB 71 – FUELS** - Eliminates the Department of Transportation's authority to stop and inspect diesel-powered vehicles suspected of using dyed-fuel. Effective immediately. Introduced 20 December 2002. Passed House and sent to Senate 1 February 2003. The sponsor is Representative Karl Waitschies (R).

**MONTANA HB 75 – PESTICIDES** - Extends the state pesticide disposal program. Effective immediately. Prefiled 12 December 2002. Referred to House Agriculture Committee 20 December. The sponsor is Representative Bob Lake (R).

**MONTANA HB 89 – WATER QUALITY** - Extends the schedule for completing total maximum daily loads for streams listed in 1997 from 10 years to 15 years. Effective immediately. Prefiled 16 December 2002. Passed House and sent to Senate 22 January 2003. Referred to Senate Natural Resources Committee 23 January. The sponsor is Representative Alan Olson (R).

**MONTANA HB 128 – NOXIOUS WEEDS** - Establishes the Noxious Weed Management Trust of the State of Montana and establishes strict monetary guidelines for acquired funds; requires approval of qualified electors to become a ballot measure on the November 2004 ballot. Prefiled 20 December 2002. Passed House and sent to Senate 22 January 2003. Referred to Senate Natural Resources Committee 27 January. The sponsor is Representative Diane Rice (R).

**MONTANA HB 144 – UNDERGROUND STORAGE TANKS** - Revises the Underground Storage Tanks Act to include a facility where there is a possibility of a release or a threatened release of a hazardous or deleterious substance; modifies the reimbursement expense of a release to a 2-year limitation period; and allows DEQ to adopt, modify, or repeal rules for the prevention of and correction of leakage from underground storage tanks to include the nonissuance, renewal, nonrenewal, modification, revocation, and suspension of permits authorizing the operation of underground storage tanks. Prefiled 20 December

2002. Referred to House Natural Resources Committee 2 January 2003. The sponsor is Representative Christopher Harris (D).

**MONTANA HB 202 – WATER QUALITY** – Defines an "interested person" to include a person who has a real property interest, a water right, or an economic interest that is or may be directly and adversely affected by a DEQ final decision of degradation of state waters. Allows for an "interested person", other than the applicant or permit holder to request a hearing before the board on DEQ's decision to issue or modify a permit. Prefiled 27 December 2002. Referred to House Natural Resources Committee 3 January 2003. Tabled in Committee 20 January. The sponsor is Representative Christopher Harris (D).

**MONTANA HB 218 – WASTE TRANSPORTATION** - Establishes the Montana High-Level Radioactive Waste and Transuranic Waste Transportation Act; requires that the owner of a high-level radioactive waste or transuranic waste to pay fees and obtain a permit before shipping the waste through Montana. Mandates that a person or entity may not transport high-level radioactive waste or transuranic waste through the state by rail or motor carrier unless the person or entity first notifies the disaster and emergency response services division and the department of transportation, pays the appropriate fees, and obtains a permit. Failure to comply with the new regulations imposes a \$10,000 fine per violation. Prefiled 27 December 2002. Referred to House Natural Resources Committee 2 January 2003. Reported from Committee 28 January. The sponsor is Representative Sylvia Bookout-Reinicke (R).

**MONTANA HB 238 – WATER USE** - Exempts local government entities from requirements imposed by a water rights short-term lease for road construction or dust abatement. Includes an exemption of local government entities posting an analysis of potential adverse effects and a posting a notice at the point of water diversion at a project site. Introduced 7 January 2003. Passed House and sent to Senate 28 January. Referred to Senate Local Government Committee 31 January. The sponsor is Representative Joan Andersen (R).

**MONTANA HB 257 – LAND USE** - Requires that access to historic rights-of-way for public use land include access to land owned by the condemnor. Petitions for historic rights-of-way must be accompanied by: (1) a description of the historic use; (2) the approximate duration of the historic use; (3) a statement that there is no other reasonable access to the condemnor's property and, (4) sworn statements from three individuals verifying the historic use of the right-of-way. Introduced and referred to House Natural Resources Committee 8 January 2003. The sponsor is Representative Dick Haines (R).

**MONTANA HB 303 – SITING CRITERIA** - Revises the definition of "facility siting" in the Montana Code of Laws to exclude an electric transmission line extending from an electrical generation facility to the point at which the transmission line connects to a regional transmission grid at an existing transmission substation or other facility. Introduced and referred to House Federal Regulations, Energy, and Telecommunications Committee 14 January 2003. Amended and reported from Committee 31 January. The sponsor is Representative Alan Olson (R).

**MONTANA HB 326 – WATER USE** - Increases the water appropriation rights of the Upper Clark Fork river basin from ten to thirty years. Sunsets these provisions in July 2005. Introduced and referred to House Natural Resources Committee 15 January 2003. The sponsor is Representative Brad Newman (D).

**MONTANA HB 328 – AIR QUALITY** - Requires the Department of Environmental Quality to consider an applicant's compliance record with the Federal Clean Air Act as well as the Montana Environmental Policy Act before issuing an air quality permit. Permits the Department to determine an applicant's record of substantial and reoccurring noncompliance with the provisions of both air quality acts and deny issuance of permit. Introduced and referred to House Natural Resources Committee 15 January 2003. The sponsor is Representative Christopher Harris (D).

**MONTANA HJ 4 – WATER USE** - Establishes an interim study to investigate options for improving the supply and distribution of water in Montana and to evaluate the water storage policy and report finding

back to the 59th Legislature and the Montana Congressional Delegation. Introduced and referred to House Natural Resources Committee 7 January 2003. The sponsor is Representative Michael Lange (R).

**MONTANA HJ 7 – LAND USE** - Establishes an interim study committee to evaluate the laws governing conservation easements in Montana and the implementation of these laws in Montana, including (1) the advantages and disadvantages of conservation easements; (2) whether or not the acquisition of conservation easements by the State of Montana or its political subdivisions is in the best interest of the current and future citizens of Montana; and (3) whether or not Montana's statutes that authorize the granting of easements in perpetuity conform to the provisions of the Montana Constitution. Introduced and referred to House Natural Resources Committee 9 January 2003. The sponsor is Representative Debby Barrett (R).

**MONTANA SB 14 – WATER USE** - Establishes a period of adjudication proceedings during negotiations of federal Indian and non-Indian reserved water rights. Prefiled 26 November 2002. Passed Senate and sent to House 16 January 2003. The sponsor is Senator Bea McCarthy (D).

**MONTANA SB 34 – EMINENT DOMAIN** - Establishes a stop to inflationary costs on construction projects within the state. Effective immediately. Prefiled 2 December 2002. Passed House and sent to Senate 30 January 2003. The sponsor is Senator Gregory D. Barkus (R).

**MONTANA SB 101 – LAND USE** - Provides for the Montana Heritage Preservation and Development Commission to adopt rules for the acquisition and sales of real or personal property. The measure would require the Commission to give consideration to (1) whether the property represents the state's culture and history; (2) whether the property can become self-supporting; (3) whether the property can contribute to the economic and social enrichment of the state; and (4) whether the acquisition or sale will create significant social and economic impacts to affected local governments and the state. Introduced 17 December 2002. Referred to Senate Business and Labor Committee 20 December. Amended and reported favorable from Committee 31 January 2003. The sponsor is Senator Dale Mahlum (R).

**MONTANA SB 133 – ENERGY STANDARDS** - Mandates all boiler and pressure vessels installed in the state be designed, manufactured, and sealed or stamped under a national code and registered with the state fire marshal. Requires the approval of the Department of Labor, Licensing and Regulation and institutes a penalty for failure to register a boiler or pressure vessel, including the proposed installation, of a boiler not in compliance with this chapter. Introduced and referred to Senate Labor, Commerce, and Industry Committee 14 January 2003. The sponsor is Senator Warren Giese (R).

**MONTANA SB 137 – LAND USE** - Enables the Montana Board of Land Commissioners to issue commercial land leases where the chief value exists in its purpose in an effort to maximize the long-term revenue generated from leasing the land. Allows for the Board of Land Commissioners to have complete autonomy in determining the development of the land for commercial purposes. Authorizes state land to be leased for a term not to exceed 99 years for commercial purposes to the highest bidder responding to a department request for proposals for commercial uses of a specified tract. Allows the board to enter into contracts with leases of state land for commercial purposes upon terms and conditions that the board may reasonably determine to be in the best interests of the beneficiary. Introduced 30 December 2002. Passed House and sent to Senate 30 January 2003. The sponsor is Senator Bob DePratu (R).

**MONTANA SJ 4 – ENDANGERED SPECIES** - Mandates that the U.S. Fish and Wildlife Service recognize that Montana has a viable management plan and is ready to assume management responsibility for the gray wolf and that the U.S. Fish and Wildlife Service delist the gray wolf as quickly as possible. Requests that federal funding be provided to Montana from a permanently established federal trust set up for future management purposes. Establishes that the U.S. Congress establish and provide funding for the Northern Rocky Mountain Grizzly Bear and Gray Wolf National Management Trust, proposed by the Governors of Montana, Idaho, and Wyoming. Mandates that wolf population management in Montana include the full range of management tools, from nonlethal to lethal. Introduced and referred to Senate Fish and Game Committee 10 January 2003. The sponsor is Representative Jim Elliot (D).



## NORTH DAKOTA

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### Regulatory Developments & Other State Information

**REQUEST FOR COMMENTS – LEAD-BASED PAINT PROGRAM** – On 8 January 2003 (68 FR 1059), EPA published a notice of receipt of an application from North Dakota requesting authorization to administer the State's Lead-Based Paint Abatement Program in accordance with section 402 of the Toxic Substances Control Act (TSCA). Included in the application was a letter signed by the Governor stating that the North Dakota program is at least as protective of human health and the environment as the Federal program under TSCA section 402. Also included was a letter from the Attorney General certifying that the laws and regulations of the State provided adequate legal authority to administer and enforce TSCA section 402. Therefore, pursuant to section 404, the program is deemed authorized as of the date of submission (4 October 2002). If EPA finds that the program does not meet the requirements for approval of a State program, EPA will disapprove the program, at which time a notice will be issued in the Federal Register and the Federal program will be established. Comments on the application must be received by 24 February 2003. For further information, contact Dave Combs, EPA at (303) 312-6021, or e-mail: [combs.dave@epa.gov](mailto:combs.dave@epa.gov).

### Legislative Developments

The 2003 legislative session convened 7 January. The information reported below was current as of 4 February. For more recent information on the legislative session, link <http://www.state.nd.us/lr/>.

**NORTH DAKOTA HB 1066 – PESTICIDES** - Continues the agricultural pesticide and pesticide container disposal program. Effective through 31 July 2005. Introduced 7 January 2003. Passed House 21 January. Received in Senate 22 January. The sponsor is Representative Eugene Nicholas (R).

**NORTH DAKOTA HB 1147 – ENVIRONMENTAL ADMINISTRATIVE PROCEDURES** - States that a request for a hearing must be made in writing within thirty days of a decision by the North Dakota Water Commission. States that the request must explain with particularity how the person is aggrieved by the decision and the issues and facts to be presented at the hearing. States that a request for a hearing must be made in writing within thirty days of the decision by the State Engineer. Introduced 7 January 2003. The sponsor is the House Natural Resources Committee.

**NORTH DAKOTA HB 1309 – FUELS** - States that beginning 1 July 2007, all diesel fuel sold or offered for sale in the state for use in internal combustion engines must contain at least 2% biodiesel fuel by volume. Introduced and referred to House Finance and Taxation Committee 13 January 2003. Hearing held 22 January. The sponsor is Representative Pam Gulleon (D).

**NORTH DAKOTA SB 2082 – PESTICIDES** - Defines "restricted use pesticide" as any pesticide formulation which is classified for restricted use by EPA. States that the assessment of a civil penalty does not preclude the imposition of other sanctions authorized under this measure. Introduced 7 January 2003. Passed Senate 20 January. Received in House 21 January. The sponsor is the Senate Agriculture Committee.

**NORTH DAKOTA SB 2126 – ENVIRONMENTAL ADMINISTRATIVE PROCEDURES** - States that a request for a hearing must be made in writing and state with particularity how the person would be



aggrieved by the decision and the issues and facts to be presented at the hearing. Introduced and referred to Senate Natural Resources Committee 7 January 2003. Passed Senate 10 January. The sponsor is the Senate Natural Resources Committee.

**NORTH DAKOTA SB 2203 – TRANSPORTATION** - States that vehicles operated on a highway in the state can not exceed a total outside width, including load thereon, of eight feet six inches. States that the length of a trailer or semitrailer, including the load thereon, can not exceed 53 feet, except that trailers and semitrailers titled and registered in North Dakota before 1 July 1987, and towed vehicles can not exceed a length of 60 feet. Introduced and referred to Senate Transportation Committee 14 January 2003. The sponsor is Senator Robert Erbele (R).



## SOUTH DAKOTA

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### AIR INFORMATION:

**PROPOSED RULE – APPROVAL/DISAPPROVAL OF SOUTH DAKOTA SIP REVISIONS** – On 27 January 2003 (68 FR 3848), EPA proposed to partially approve and partially disapprove State Implementation Plan (SIP) revisions submitted by South Dakota. The revisions modify the State's air quality rules so they are consistent with federal rules and clarify existing provisions. EPA also proposed to remove from the SIP, or not approve into the SIP, certain provisions of the State's air quality rules because they are not related to attainment or maintenance of the National Ambient Air Quality Standards and are not appropriate for inclusion in the SIP. This action is being taken under section 110 of the Clean Air Act. Written comments must be received by 26 February 2003. For further information, contact Laurel Dygowski, EPA at (303) 312-6144.

### WATER INFORMATION:

**FINAL REGULATION – BENEFICIAL USES FOR MOCCASIN CREEK** – The South Dakota Department of Environment and Natural Resources has added warmwater marginal fish life propagation and limited contact recreation to the list of beneficial uses for a segment of Moccasin Creek in Brown County. The regulation was effective 2 February 2003. For more information, contact Patrick Snyder at (605) 773-3351, or link: <http://legis.state.sd.us/rules/rules/7451.htm>

### Legislative Developments

The 2003 legislative session convened 14 January. The information reported below was current as of 4 February. For more recent information on the legislative session, link <http://legis.state.sd.us/index.cfm>.

**SOUTH DAKOTA SB 42 – HAZARDOUS MATERIALS** - Updates provisions pertaining to motor carrier safety and transportation of hazardous materials through 1 January 2003 instead of 1 January 2002. Introduced 11 January 2003. Referred to Senate Transportation Committee 14 January. The sponsor is the Senate Transportation Committee.



## UTAH

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### Regulatory Developments & Other State Information

**TOXIC CHEMICAL RELEASE INVENTORY REPORTING WORKSHOPS** – EPA Region 8 is sponsoring several free workshops that provide comprehensive information and instruction to government facilities and businesses that must complete the Toxic Chemical Release Inventory Reporting Form under Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA). This reporting responsibility requires affected facilities to report annually for over 650 EPCRA Section 313 chemicals and chemical categories. Workshops focused on issues related to the manufacturing, petroleum bulk storage, chemical distribution, solvent recovery, and RCRA Subtitle C TSD industries will be held 27 March and 23 April 2003 in Salt Lake City. For more information or to register, contact Jack Slater, EPA at (303) 312-6026, or Joyel Dhieux at (303) 312-6447.

### AIR INFORMATION:

**FINAL REGULATION – CONTINUOUS EMISSIONS MONITORING** – The Utah Department of Environmental Quality (DEQ) has adopted clarifying amendments to its continuous emissions monitoring program. For the definition of "Relative Accuracy Audit," the amendment: (1) changes the reference to Appendix A to Appendix F; and (2) adds a clarification that reference method test procedures are found in 40 CFR Part 60, Appendix A. This is a nonsubstantive amendment. The amendments were effective 5 December 2002. For more information, contact Jan Miller at (801) 536-4042, or link <http://rules.utah.gov/publicat/bulletin/2002/20021001/25247.htm>.

### WATER INFORMATION:

**FINAL REGULATION – ADOPTION OF FEDERAL REGULATIONS** – The Utah DEQ has adopted federal requirements for drinking water systems. The amendments include: (1) variance and exemption criteria; (2) radionuclide rules; (3) interim enhanced surface water treatment rule; and (4) disinfection/disinfection byproducts rule. The amendments were effective 9 December 2002. For more information, contact Ken Busfield at (801) 536-4207.

### Legislative Developments

**The 2003 legislative session convened 20 January. The information reported below was current as of 4 February. For more recent information on the legislative session, link <http://www.le.state.ut.us/>.**

**UTAH HB 20 – CLEAN FUEL FLEETS** - Provides that the purchase of a clean special fuel tax certificate is a prerequisite to registering a vehicle powered by a clean fuel and requires the certificate to be carried in the vehicle at all times. Requires that clean fuel delivery agents post a notice on the pump that a vehicle registered in this state that uses this fuel is required to have a valid annual clean special fuel tax certificate. Effective 1 October 2003. Introduced 15 January 2003. The sponsor is Representative Don Bush (R).

**UTAH HB 67 – ELECTRONIC WASTE** - Modifies the Environmental Quality Code to require the Solid and Hazardous Waste Control Board, with regard to electronic equipment waste, to establish an educational initiative that meets certain requirements and to monitor federal and state activities. Provides

for reporting to the Legislature. Defines terms and grants rulemaking authority. Introduced 6 January 2003. Failed in House 28 January. The sponsor is Representative Ralph Becker (D).

**UTAH HB 182 – ASBESTOS** – Modifies the penalty provisions of the Air Conservation act by making a knowing violation of asbestos work practices a third degree felony. Introduced 15 January 2003. Passed House 23 January. Referred to Senate Natural Resources, Agriculture and Environment Committee 27 January. Reported from Committee 30 January. The sponsor is Representative Mike Morely (R).

**UTAH SB 4 – CLEAN FUEL FLEETS** - Modifies the Revenue and Taxation Code by clarifying that government vehicles are exempt from purchasing the clean special fuel tax certificate. Introduced 15 January 2003. Passed Senate 21 January. Referred to House Revenue and Taxation Committee 23 January. Reported from Committee 28 January. The sponsor is Senator David Steele (R).

**UTAH SB 35 – CLEANUP** - Modifies the Redevelopment Agencies Act. Expands the criteria for blight to include a superfund site. Makes an exception to a size restriction on project areas for the case of a superfund site. Authorizes the use of tax increment funds for a superfund site without taxing entity approval. Introduced 20 December 2002. Passed Senate 27 January 2003. Referred to House Political Subdivisions Committee 28 January. The sponsor is Senator Chris Butters (R).

**UTAH SB 84 – ENVIRONMENTAL ADMINISTRATIVE PROCEDURES** - Creates the "Environmental Institutional Control Act." Allows for creation of environmental institutional controls which limit or otherwise affect the use of real property which has been affected by a cleanup or risk assessment. Includes procedures for establishment and enforcement of the institutional controls, removal of the controls, and appeal of the executive director's decision regarding the controls. Introduced 20 December 2002. Passed Senate 31 January. Referred to House Natural Resources, Agriculture and Environment Committee 3 February. The sponsor is Senator Bill Wright (R).

**UTAH SB 85 – UNDERGROUND STORAGE TANKS** - Modifies the Underground Storage Tank Act. Increases the environmental assurance fee of 1/4 cent per gallon on the first sale or use of petroleum products to 1/2 cent per gallon. Provides for a reduction of the fee when the cash balance in the Petroleum Storage Tank Trust Fund exceeds \$20,000,000 in any year. Introduced 20 December 2002. Passed Senate 31 January 2003. Referred to House Natural Resources, Agriculture and Environment Committee 3 February. The sponsor is Senator Bill Wright (R).

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## WYOMING

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### Regulatory Developments & Other State Information

**PROPOSED REGULATION – MILITARY MUNITIONS RULE** – On 23 April 2002, the Wyoming Water/Waste Advisory Board met to consider recommending adoption of the Military Munitions Rule (MMR). The Wyoming Department of Environmental Quality (DEQ) suggested that the Board recommend adoption of most, but not all, of the federal rule. DoD provided comments on DEQ's proposal. The issues have been resolved. DEQ is expected to repropose the regulation in the summer of 2003. For more information, contact Diane Connolly, WREO Regional Counsel at (303) 844-0955.

### WATER INFORMATION:

**FINAL APPROVAL – 2002 303(d) LIST AND TMDL SCHEDULE** – The Wyoming DEQ had prepared its 2002 303(d) List and 305(b) Report and submitted the documents to EPA for approval. According to DEQ, EPA has approved the list and report. For more information, contact Chuck Harnish at (307) 777-6372, or link <http://deq.state.wy.us/wqd/Downloads/events/2-2227-doc.pdf>.

### Legislative Developments

The 2003 legislative session convened 14 January. The information reported below was current as of 54 February. For more recent information on the legislative session, link <http://legisweb.state.wy.us>.

**WYOMING HB 99 – GROUNDWATER** - Creates licensure of water well drilling contractors and well pump installation contractors. Creates a board for examining water well drilling and well pump installation for the purpose of creating licensing procedures. Establishes fees, fines and examination requirements for contractors. Effective immediately. Introduced 14 January 2003. Passed House 27 January. The sponsor is Representative James Hageman (R).

**WYOMING HB 100 – WATER USE** - Authorizes funds to be used to complete further studies of emergency power, water distribution, and water storage. Authorizes further study of the joint use of the well being drilled near the towns of Dayton and Ranchester. Increases funding for new water development throughout the state. Introduced and referred to House Agriculture, Public Lands, and Water Resources Committee 14 January 2003. Reported from Committee 23 January. The sponsor is the Select Water Committee.

**WYOMING HB 101 – WATER** - Authorizes construction of water projects. Specifies terms and conditions of funding for projects. Increases the amount of water supply, water well, and water storage projects throughout the state. Effective immediately. Introduced and referred to House Agriculture, Public Lands, and Water Resources Committee 14 January 2003. The sponsor is the Select Water Committee.

**WYOMING SF 62 – EMINENT DOMAIN** - Clarifies that the right of eminent domain may be exercised for electric distribution systems. Effective immediately. Introduced and referred to Senate Corporations, Elections and Political Subdivisions 15 January 2003. The sponsor is Senator Cale Case (R).

**WYOMING SF 72 – WATER USE** - Authorizes temporary acquisition or transfer of water rights for instream flow. Allows instream flow for improvement of fisheries and habitat and other beneficial uses. Effective immediately. Introduced and referred to Senate Agriculture, Public Lands, and Water Resources Committee 15 January 2003. The sponsor is Senator Cale Case (R).

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